

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

LUKE JOHN SCOTT, SR.,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

Cause No. CV 20-32-GF-BMM

ORDER

Petitioner Scott applied for a writ of habeas corpus under 28 U.S.C. § 2241 on April 7, 2020. He is a pretrial detainee facing federal charges in *United States v. Scott*, CR 19-29-GF-BMM and CR 19-30-GF-BMM. Scott is representing himself in those actions and in this one.

Scott's motion to proceed in forma pauperis (Doc. 5) adequately shows that he is not able to pay all costs that may be associated with this action. His motion will be granted.

A petition for writ of habeas corpus is an extraordinary remedy designed to test the legality of a petitioner's custody. *See* 28 U.S.C. § 2241(c)(3). The writ is not meant to supplant the usual procedures of criminal litigation. *See, e.g., Stack v. Boyle*, 342 U.S. 1, 6–7 (1951); *see also, e.g., Reese v. Warden Philadelphia FDC*, 904 F.3d 244, 246–47 & n.2 (3d Cir. 2018); *Medina v. Choate*, 875 F.3d 1025,

1029 (10th Cir. 2017) (“If a federal prisoner is ever entitled to relief under § 2241 based on something that happened before trial, the circumstances are so rare that they have apparently not yet arisen.”).

Scott’s petition is not aimed solely at the legality of his current custody. He contends the United States does not have jurisdiction to pursue the criminal charges pending against him. He may make these arguments in pretrial motions in his criminal cases. Accordingly, **IT IS ORDERED:**

1. Scott’s motion to proceed in forma pauperis (Doc. 4) is **GRANTED**. The clerk shall waive payment of the filing fee.
2. Scott’s petition for writ of habeas corpus (Doc. 1) is **DISMISSED**.
3. The clerk shall file the petition and brief in each of Scott’s criminal cases (CR 19-29-GF-BMM and CR 19-30-GF-BMM) as a motion to dismiss and brief in support as of the date of this Order. The clerk shall attach a copy of this Order to each motion.
4. Briefing will proceed under D. Mont. L.R. CR 47 (Dec. 1, 2019).

DATED this 17th day of April, 2020.

A handwritten signature in blue ink, reading "Brian Morris".

Brian Morris, Chief District Judge
United States District Court